

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOHN HIGGINS,

Plaintiff,

v.

No. 06-CV-689
(DRH)

CONSOLIDATED RAIL CORPORATION,
et al.,

Defendants.

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

ORDER

Defendants Consolidated Rail Corporation and CSX Corporation (collectively "CSX") have moved in limine seeking (1) to admit and preclude certain evidence, (2) a jury instruction requiring the jury to apportion damages, and (3) to preclude evidence of future medical treatment and expenses. Dkt. Nos. 39-41. Plaintiff John Higgins ("Higgins") filed no opposition to the motions. Oral argument on the motions was heard on-the-record on September 29, 2010. For the reasons stated during the hearing on September 29, 2010, which are incorporated herein by reference, it is hereby

ORDERED that CSX's motion:

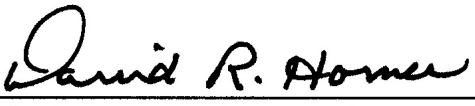
1. To admit and preclude certain evidence (Dkt. No. 39) is **GRANTED** in all respects except as to defendants' motion to preclude evidence of a safer method of maintaining the workplace as to which defendants' motion is **DENIED**:

2. For a jury instruction requiring the jury to apportion damages (Dkt. No. 40) is **DENIED** without prejudice to renewal at the time of the jury charge conference; and

3. To preclude evidence of future medical treatment and expenses (Dkt. No 41) is **DENIED**.

IT IS SO ORDERED.

DATED: September 29, 2010
Albany, New York



United States Magistrate Judge